



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY  
ACQUISITION LOGISTICS AND TECHNOLOGY  
U.S. ARMY CONTRACTING AGENCY  
5103 LEESBURG PIKE SUITE 302  
FALLS CHURCH VA 22041-3201

JUN 10 2004

SFCA

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Army Contracting Agency (ACA) Policy Memorandum P005: Elimination of Unreliable Sources of Defense Items and Components

Pursuant to my authority as Head of the Contract Activity (HCA), I am issuing this Army Contracting Agency Policy Memorandum P005: Elimination of Unreliable Sources of Defense Items and Components. This Policy implements the Director of Defense Procurement and Acquisition Policy memorandum of March 31, 2004, (Enclosure 1) to establish a notification process regarding foreign countries that restrict the provision or sale of military goods or services to the United States (U.S.) because of U.S. counterterrorism or military operations.

This Policy establishes the Army Contracting Agency (ACA) notification process as required by Section 821 National Defense Authorization Act for Fiscal Year 2004. When the contracting officer is informed by a vendor that it can not supply a good or service because their country restricts such sales, the contracting officer shall complete the notification (Enclosure 2) and electronically send it to their Principal Assistant for Contracting (PARC) and ACA Headquarters (ACA HQ) Operations and Policy Directorate (SFCA-CP) offices. The ACA HQ Operations and Policy Directorate will compile the notifications and submit them to the Procurement and Policy and Support (SAAL-PP) office of the Deputy Assistant Secretary of the Army for Policy and Procurement (DASA(P&P)).

This Policy will remain in effect for all contracts in existence on November 24, 2003 and awarded thereafter until otherwise rescinded.

If you have any questions regarding this matter, please contact, Anne Stevens at commercial (703) 681-9292, DSN 761-9292 or e-mail, [anne.stevens@us.army.mil](mailto:anne.stevens@us.army.mil).

*Sandra O. Sieber*  
Sandra O. Sieber  
Head of Contracting Activity  
Army Contracting Agency

Enclosures

DISTRIBUTION:

U.S. ARMY CONTRACTING AGENCY PRINCIPAL ASSISTANTS RESPONSIBLE  
FOR CONTRACTING

U.S. Army Contracting Agency, Southern Region, ATTN: SFCA-SR, 1301 Anderson  
Way, SW., Fort McPherson, GA 30330-1096

U.S. Army Contracting Agency, Northern Region, ATTN: SFCA-NR, 11 Bernard  
Road, Building 10, Fort Monroe, VA 23651-1001

U.S. Army Contracting Agency, Information Technology, E-Commerce and  
Commercial Contracting Center (ITEC4), ATTN: SFCA-IT, 2461 Eisenhower  
Avenue, Hoffman Building 1, Alexandria, VA 22331-1700

U.S. Army Contracting Command, Europe, ATTN: SFCA-EC, Unit 29331,  
APO AE 09266

U.S. Army Contracting Command, Korea, ATTN: SFCA-KC, Unit 15289,  
APO AP 96205-5289

U.S. Army Contracting Activity, Pacific, ATTN: SFCA-PR, 140 Doleman Street,  
Building T115, Fort Shafter, HI 96858-5430

U.S. Army Contracting Agency, Southern Hemisphere, ATTN: SFCA-SH,  
2450 Stanley Road, Suite 320, Fort Sam Houston, TX 78234-7515

U.S. Army Contracting Command, Southwest Asia, ATTN: SFCA-SA,  
1881 Hardee Avenue, S.W., Fort McPherson, GA 30330-1064



ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

March 31, 2004

MEMORANDUM FOR DIRECTORS, DEFENSE AGENCIES  
DEPUTY ASSISTANT SECRETARY OF THE ARMY  
(POLICY AND PROCUREMENT), ASA(ALT)  
DEPUTY ASSISTANT SECRETARY OF THE NAVY  
(ACQUISITION MANAGEMENT), ASN(RDA)  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(CONTRACTING), SAF/AQC  
DEPUTY DIRECTOR FOR LOGISTICS OPERATIONS (DLA)  
DIRECTOR, ADMINISTRATION AND MANAGEMENT  
DIRECTOR, ARMY CONTRACTING AGENCY

SUBJECT: Elimination of Unreliable Sources of Defense Items and Components

Section 821 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136), requires the Secretary of Defense, in coordination with the Secretary of State, to identify and list foreign countries that restrict the provision or sale of military goods or services to the United States because of United States counterterrorism or military operations. The list is to be reviewed and updated as appropriate.

Section 821 further states that the Secretary of Defense may not procure any items or components contained in military systems if the items or components, or the systems, are manufactured in any foreign country that has been identified and placed on the list of unreliable sources. The Secretary may waive this limitation if he determines in writing and notifies Congress that the Department's need for the item is of such an unusual and compelling urgency that the Department would be unable to meet national security objectives. Section 821 applies to contracts in existence on November 24, 2003. The Department must ensure that such contracts are in compliance with subsection (b) not later than October, 2005. A copy of section 821 is attached for your review.

To date, no countries have been identified and a list therefore does not yet exist. Please ensure your contracting officers are familiar with the requirements of Section 821. I also request you establish a notification process which the contracting officers would use to notify you if a country decides to restrict the delivery or sale of military goods or services to the U.S. This notification should then be forwarded to me for appropriate action.



Enclosure (1)

Please provide me with the status of your implementation and notification process within sixty days of the date of this memorandum. If you or your staff has any questions on this matter, my point of contact is Ms. Susan Hildner, (703) 695-4258, [susan.hildner@osd.mil](mailto:susan.hildner@osd.mil).



Deidre A. Lee  
Director, Defense Procurement  
and Acquisition Policy

Attachment:  
As stated

## Part II—Requirements Relating to Specific Items

10 USC 2534  
note.

### SEC. 821. ELIMINATION OF UNRELIABLE SOURCES OF DEFENSE ITEMS AND COMPONENTS.

(a) IDENTIFICATION OF CERTAIN COUNTRIES.—The Secretary of Defense, in coordination with the Secretary of State, shall identify and list foreign countries that restrict the provision or sale of military goods or services to the United States because of United States counterterrorism or military operations after the date of the enactment of this Act. The Secretary shall review and update the list as appropriate. The Secretary may remove a country from the list, if the Secretary determines that doing so would be in the interest of national defense.

(b) PROHIBITION ON PROCUREMENT OF ITEMS FROM IDENTIFIED COUNTRIES.—The Secretary of Defense may not procure any items or components contained in military systems if the items or components, or the systems, are manufactured in any foreign country identified under subsection (a).

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (b) if the Secretary determines in writing and notifies Congress that the Department of Defense's need for the item is of such an unusual and compelling urgency that the Department would be unable to meet national security objectives.

Applicability.

(d) EFFECTIVE DATE.—(1) Subject to paragraph (2), subsection (b) applies to contracts in existence on the date of the enactment of this Act or entered into after such date.

Deadline.

(2) With respect to contracts in existence on the date of the enactment of this Act, the Secretary of Defense shall take such action as is necessary to ensure that such contracts are in compliance with subsection (b) not later than 24 months after such date.

### SEC. 822. INCENTIVE PROGRAM FOR MAJOR DEFENSE ACQUISITION PROGRAMS TO USE MACHINE TOOLS AND OTHER CAPITAL ASSETS PRODUCED WITHIN THE UNITED STATES.

(a) IN GENERAL.—(1) Chapter 144 of title 10, United States Code, is amended by inserting after section 2435 the following new section:

#### “§ 2436. Major defense acquisition programs: incentive program for contractors to purchase capital assets manufactured in United States

“(a) ESTABLISHMENT OF INCENTIVE PROGRAM.—The Secretary of Defense shall plan and establish an incentive program in accordance with this section for contractors to purchase capital assets manufactured in the United States in part with funds available to the Department of Defense.

“(b) DEFENSE INDUSTRIAL CAPABILITIES FUND MAY BE USED.—The Secretary of Defense may use the Defense Industrial Capabilities Fund, established under section 814 of the National Defense Authorization Act for Fiscal Year 2004, for incentive payments under the program established under this section.

“(c) APPLICABILITY TO MAJOR DEFENSE ACQUISITION PROGRAM CONTRACTS.—The incentive program shall apply to contracts for the procurement of a major defense acquisition program.

“(d) CONSIDERATION.—The Secretary of Defense shall provide consideration in source selection in any request for proposals for

**NOTIFICATION**  
**SECTION 821 – ELIMINATION OF UNRELIABLE SOURCES OF DEFENSE**  
**ITEMS AND COMPONENTS**

**NAME OF VENDOR:**

**NAME OF COUNTRY RESTRICTING PROVISION OF GOODS OR SERVICES:**

**CONTRACT/SOLICITATION NUMBER:**

**SUPPLY/SERVICE TO BE FURNISHED:**

**DATE OF REFUSAL (MM/DD/YEAR):**

**REASON FOR NOT SUPPLYING THE GOODS OR SERVICES:**

**ACA CONTRACTING OFFICER:**  
**CONTRACTING OFFICE:**  
**PHONE:**